

A Communication From the Chief Legal Officers
Of the Following States:

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Louisiana ▪ Massachusetts ▪ Minnesota ▪ Mississippi ▪ Montana ▪ New Mexico
North Carolina ▪ Ohio ▪ Oklahoma ▪ Rhode Island ▪ South Dakota
Tennessee ▪ Vermont ▪ Washington ▪ West Virginia

January 6, 2009

The Honorable Harry Reid, Majority Leader
528 Hart Office Building
U.S. Senate
Washington, D.C. 20510

The Honorable Mitch McConnell, Minority Leader
361A Russell Office Building
U.S. Senate
Washington, D.C. 20510

Via Facsimile and Mail

Dear Senators Reid and McConnell:

We are writing to urge you to help alleviate the mortgage and financial crises facing the country by amending the Bankruptcy Code to permit United States bankruptcy courts to protect families from foreclosure.

The State Attorneys General have been on the front line of efforts to assist homeowners facing unsustainable mortgage loans. We receive thousands of complaints from consumers who have been victims of predatory lending practices, unscrupulous mortgage brokers and foreclosure rescue schemes. In recent months, State Attorneys General have especially focused on urging mortgage servicers to avoid unnecessary foreclosures by modifying unaffordable loans in a manner that serves holders, servicers, homeowners and the public. Through the multi-state Foreclosure Prevention Working Group, we collected data which demonstrates that voluntary loan modification measures have failed. The recently-enacted “Hope for Homeowners” program, regrettably, has generated little interest from mortgage holders (HUD recently reported only 111 applications nationwide). Because most troubled mortgages are securitized, multiple stakeholders may be involved in the decision to modify mortgage loans, causing a continued paralysis. Although some major lenders have recently embarked on loan modifications on a wide scale, many servicers and secondary market investors remain unwilling or unable to act, even when their own economic interests dictate otherwise. Despite our best efforts, we conclude that more still needs to be accomplished.

Allowing the bankruptcy courts the ability to order loan modifications is a sensible and workable approach that can provide our housing market with the stability our country so desperately needs. Reasonable and limited reforms of the bankruptcy laws would allow judges to readjust debt owed on primary residences, just as they can for vacation homes and family farms. The bankruptcy system is well-equipped to handle this crisis, as there are nearly 300 bankruptcy judges with years of expertise in valuing property. No new agency, no new regulations and no additional personnel are needed. The courtrooms, judges and filing system are already in place. The proposal could take effect immediately. Further, it would cost the taxpayers nothing. Any concern that amending the bankruptcy laws in this manner will cause an increase in bankruptcy filings is unfounded. Indeed, such an amendment will likely motivate mortgage servicers and secondary market investors to achieve sustainable mortgage loan modifications, thus preventing bankruptcy filings.

Under the proposed amendment, losses and benefits are shared between homeowners and investors. The homeowner would be required to pay the loan based on the current secured value and the mortgage holder absorbs the losses for that portion of the debt which exceeds the value of the home. In addition, the homeowner with regular income retains the family home while paying a sustainable mortgage. The mortgage holder receives a steady stream of income and market rate interest, while avoiding the losses and expenses incident to a foreclosure sale.

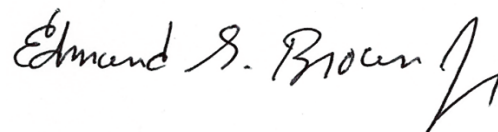
It is clear, we believe, that the amendment will help all involved. Foreclosures impact not only the homeowner at issue, but their neighbors as well. The amendment will help neighboring properties by stabilizing prices in the housing market and reducing the negative externalities associated with foreclosures. It will help cities and counties by stabilizing and improving the tax base. By re-writing mortgage instruments to affordable amounts, it will help secondary market investors and other owners by making the stream of income on mortgage-backed securities more certain. Finally, it will help the worldwide financial markets by halting the ruinous cycle of foreclosures at the heart of this crisis, thus helping to stabilize markets.

We urge your immediate consideration of this measure to address the personal crisis faced by each distressed homeowner, the market crisis in the housing sector and the worldwide financial crisis. Please do not hesitate to contact any of us if we can be of assistance with this or any other matter.

Cordially,

A handwritten signature in black ink, appearing to read "Terry Goddard".

Terry Goddard
Attorney General of Arizona

A handwritten signature in black ink, appearing to read "Edmund G. Brown, Jr.". The signature is stylized with a large, sweeping "E" and a long, trailing flourish.

Edmund G. Brown, Jr.
Attorney General of California



Richard Blumenthal
Attorney General of Connecticut



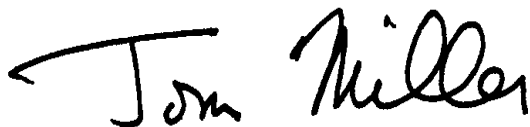
Joseph R. Biden, III
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Attorney General of the District of Columbia



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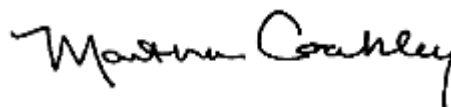
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Jack Conway
Attorney General of Kentucky



James D. Caldwell
Attorney General of Louisiana



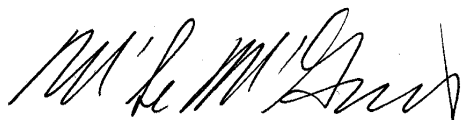
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Nancy Hardin Rogers
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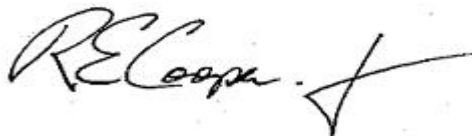
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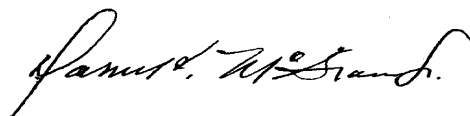
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